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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,892	12/04/2003	Garry Woltman	KCX-703 (19021)	6732
22827	7590	11/01/2005		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER

3761

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/727,892

Applicant(s)

WOLTMAN ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/4/03, 3/8/05</u>   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on December 4, 2003 and March 8, 2005 were filed on and after, respectively, the mailing date of the Application. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### *Claim Rejections - 35 USC § 102*

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-8, 10-14, 17, 18 and 20-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lassen et al (U.S. Patent Application Publication No. 2002/0013563).

With respect to **Claim 1**: Lassen teaches an absorbent article 10 comprising a liquid pervious cover 12, a liquid-impervious baffle 14, and absorbent core 18. (¶ 0023) Absorbent core 18 is further comprised of first member 26 and second member 28 transversely separated by central flexure axis 24. (¶ 0033) As can best be seen from Fig. 1, members 26 and 28 extend longitudinally along the length of article 10 and have ends in anterior region 60 and posterior region 62. Flexure axis 24 defines a flexible channel 30 between said members 26 and 28 that is U-shaped (¶ 0034).

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With respect to **Claim 2**: Lassen teaches that the width of article 10 is in the range of 2-10 cm, or 20-100 mm (§ 0057), therefore the transverse width of members 26 and 28 will be less than about 20 mm.

With respect to **Claim 3**: Lassen teaches that central flexure axis 24 is capable of being positioned about 10 mm from the transverse center of article 10 (§ 0032), therefore channel 30 is capable of having a width of at least 10 mm.

With respect to **Claim 6**: Lassen teaches that central flexure axis 24, and thus channel 30, is an area of low density absorbent 48. (§ 0052)

With respect to **Claim 7**: Lassen teaches that cover 12 is sprayed with a surfactant (§ 0027), and a portion of cover 12 is disposed along channel 30.

With respect to **Claim 8**: Please see the rejection of Claim 6.

With respect to **Claim 10**: Lassen teaches transfer layer 23 positioned between cover 12 and absorbent core 18. (§ 0023)

With respect to **Claim 11**: Lassen teaches that outer periphery 16 (Fig. 1) is circumscribed by the seam joining cover 12 and baffle 14. (§ 0025)

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With respect to **Claim 12**: Please see the rejection of Claim 1 as Claim 16 is rejected for all of the same reasons stated with respect to Claim 1, in addition to the following:

Lassen also teaches third and fourth absorbent members 38 and 40 that extend longitudinally and are located adjacent members 26 and 28. (Fig. 2) (¶ 0039) As can best be seen in Fig. 2, there exist flexure axes Y' and Y'' that define flexible zones between members 26 and 38 and between members 28 and 40.

With respect to **Claim 13**: Since Lassen teaches that the width of napkin 10 is in the range of 20 mm –100 mm, each of absorbent members 26,28,38 and 40 would have a width no greater than 25 mm. Given the existence of periphery 16 and the three flexure zones, Examiner is concluding that the width of said absorbent members is no greater than about 20 mm.

With respect to **Claim 14**: Please see the rejection of Claim 3.

With respect to **Claim 17**: Please see the rejection of Claim 6.

With respect to **Claim 18**: Please see the rejection of Claim 7.

With respect to **Claim 20**: Please see the rejection of Claim 10.

With respect to **Claim 21**: Please see the rejection of Claim 11.

With respect to **Claim 22**: Please see the rejection of Claim 12 as Claim 22 is rejected for all of the same reasons stated with respect to Claim 12, in addition to the following:

Since Lassen teaches channel 30 and flexibility zones along flexure axes Y' and Y'' and

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also teaches absorbent members 26, 28, 38 and 40, Lassen thus also teaches a stepped absorbent capacity along transverse axis X-X that can best be seen from Fig. 3.

With respect to **Claim 23**: Since absorbent members 26 and 28 are formed by bisecting absorbent core 18 lengthwise and Lassen also teaches that absorbent members 38 and 40 are of equal thickness to members 26 and 28 (§ 0039), napkin 10 is concluded herein to have a constant absorbent capacity along longitudinal axes Y, Y' and Y''.

With respect to **Claim 24**: Lassen teaches flexure axes Y, Y' and Y'' defining flexure zones that are regions of highest flexibility and said zones are also areas 48 of lower density absorbent.

With respect to **Claim 25**: Please see the rejection of Claim 11.

With respect to **Claim 26**: Please see the rejection of Claim 22 as Claim 26 is rejected for all of the same reasons stated with respect to Claim 22, in addition to the following: Lassen teaches that central flexure axis 24 is capable of being positioned about 10 mm from the transverse center of article 10 (§ 0032) in the extended state, therefore channel 30 is capable of having a width of at least 10 mm. The extended and compressed states of napkin 10 can best be seen in Figs. 3 and 4, wherein in Fig. 4, absorbent members 26 and 28 are clearly shown to be substantially together.

With respect to **Claim 27**: Please see the rejection of Claim 23.

With respect to **Claim 28**: Please see the rejection of Claim 24.

With respect to **Claim 29**: Please see the rejection of Claim 11.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4,5,9,15,16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lassen ('563) in view of Sherrod et al (U.S. Patent No. 4,973,325).

With respect to **Claims 4, 5, 9, 15, 16 and 19**: Lassen does not teach a transverse segment proximate to the ends of members 26,28,38 and 40 disposed in either the anterior region 60 or posterior region 62. Sherrod teaches an H-shaped transfer

member 54 comprised of a blend of hydrophobic and hydrophilic cellulose fibers (Col. 4, lines 45-50) wherein longitudinal absorbent segments 30 and 32 are disposed on either side of transverse beam 64 and first pair of legs 56 and 58 extend transversely across the body of napkin 10 and overlay absorbent segments 30 and 32 at their first and second ends. (Figs. 3,6) (Col. 5, lines 24-28) Sherrod teaches that napkin 10 may flex along an axis defined by the open area between absorbent segments 30 and 32 and that the transfer layer 54 as shaped is capable of bending with the article. It would be obvious to someone of ordinary skill in the art to add an H- or T-shaped transfer layer to the flexible absorbent article taught by Lassen as Lassen also teaches a flexible article and, as taught by Sherrod, the flexibility places said transfer layer closer to the body for increased efficiency in receiving and transferring fluid as well as adding structural integrity to the absorbents 30 and 32. (Col. 5, lines 16-20)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in cursive script, appearing to read 'Tzaluk', is written below the printed name and title.